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In re Application of: Kishimoto, et al.
Application No. 10/635,739
Filed: August 5, 2003
For: STORAGE DEVICE AND METHOD OF
SETTING CONFIGURATION
INFORMATION OF SAME

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 20 January 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated.** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

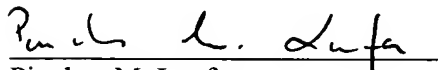
The petition filed 20 January 2005 fails to adequately meet requirement (e) of the criteria set forth above. There is no detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). The limitations purported to distinguish all of the independent claims from the references are not in all of the independent claims. For example, in the discussion of U.S. Patent No. 4,807,186, it is stated that the reference "does not disclose that a terminal device sends a command group, which is related to the configuration information of the storage device, to the service processor, and that the service processor determines approval or denial of execution of a command group, as recited in independent claims 1, 4, and 6." However, it is not at all clear that claim 6 requires that the service processor determine approval or denial of execution of a command group. As another example, in the discussion of the remaining seven references it is stated that each of the references fails to teach or disclose "a service processor that determines approval or denial of execution of a command group prior to execution of the command group, as recited in independent claims 1, 4, and 6." However, it is not clear that claim 4 requires that the service processor determine approval or denial prior to execution. While the determination step is recited before the execution step in claim 4, there appears to be no requirement that the steps occur in that sequence. As noted above, claim 6 does not appear to require that the service processor determine approval or denial of execution of a command group. Furthermore, claim 6 does not even appear to require a step of determining approval or denial of execution of a command group. Petitioner should ensure that the above discussion is directed to how the **language of each** of the independent claims is specifically distinguishable and patentable from **each** of the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

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Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



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